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**UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA,  
SOUTHERN DIVISION**

LISA LIBERI, et al,

Plaintiffs,

vs.

ORLY TAITZ, et al,

Defendants.

CIVIL ACTION NUMBER:

**8:11-cv-00485-AG (AJW)**

**PLAINTIFFS OPPOSITION TO THE  
SANKEY DEFENDANTS AMENDED  
MOTION TO COMPEL FURTHER  
RESPONSES TO  
INTERROGATORIES FROM LISA  
LIBERI; AND FOR SANCTIONS  
AGAINST LIBERI AND BERG**

Date of Hearing: July 9, 2012

Time of Hearing: 10:00 a.m.

Location: Courtroom 10D

**I. INTRODUCTION:**

Plaintiffs by and through their undersigned Counsel hereby submit their Memorandum in Opposition to Defendants Todd Sankey and The Sankey Firm, Inc.'s, collectively ["Defendants"] Motion to Compel ["Def. MTC"] further Interrog. Responses from Plaintiff Lisa Liberi ["Liberi"] and for Sanctions against Liberi and Philip J. Berg, Esquire ["Berg"]. In support hereof, Plaintiffs aver as follows:

1           1.       Defendants Motion is incompliant with this Court's Local Rules ["L.R."]  
2       37-1 (Failure to comply with proper Pre-Filing Conference requirements); the Sankey  
3       Defendants failed to file a certification with their Motion that they complied with the  
4       Local Rules and conducted a proper "Meet and Confer". *Fed. R. Civ. P.* 37(a)(1)  
5       (prohibiting the filing of discovery motions without first certifying that the moving  
6       party has conferred in good faith with the adverse party in an effort to resolve the  
7       dispute without court action); and L.R.'s 37-2, 37-2.1 and 37-2.2 (Failure to prepare a  
8       written Stipulation regarding the discovery disputes; failure to provide it to Plaintiffs'  
9       Counsel; and failure to file a completed Stipulation with their Moving papers).

10           2.       Pursuant to this Court's Local Rule 37-2.4 this Court must Deny  
11       Defendant's Motion to Compel with Prejudice and Award Plaintiffs their Attorney  
12       Fees and Costs pursuant to *Fed. R. Civ. P.* 37(a)(5)(B).

13           **II.       STATEMENT OF FACTS:**

14           Plaintiffs served their Initial Disclosures to all Defendants on November 29,  
15       2011. Plaintiffs Initial Disclosures contained approximately Five Thousand [5,000]  
16       pages of documents. [Berg Decl., p. 3, ¶3].

17           On February 10, 2012, Plaintiffs were served with Defendants Discovery  
18       requests by way of Interrogatories and over four hundred and twenty three [423]  
19       Requests for Production of Documents. were asking for Documents from each of the  
20       Plaintiffs, separately, for every paragraph of Plaintiffs First Amended Complaint  
21       ["FAC"]. Plaintiffs' Responses were due on or before March 12, 2012, after the

1 Discovery Cut-Off Date of March 5, 2012. Plaintiffs Answered Defendants  
2 Discovery requests on March 9, 2012. [Berg Decl., p. 3, ¶5].  
3

4 Defendants never sent Plaintiffs a request for a “Meet and Confer” regarding  
5 inadequacies they were claiming with Liberi’s Responses to the Defendants  
6 Interrogatories.  
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8 Defendants Counsel, Marc S. Colen, Esquire and Philip J. Berg, Esquire  
9 did have communications regarding the Sankey Defendants intent on filing a Motion  
10 to Compel further Responses to their Discovery requests on the following dates:  
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13 **March 12, 2012** - Mr. Berg received an Email from Mr. Colen stating he  
14 received Plaintiffs responses to Defendants Discovery Requests and asked that  
15 Plaintiffs “*consider responding to the questions asked and in the manner*  
16 *required by the FRCP and relevant case law*”. Mr. Colen stated that he would  
17 be sending Plaintiffs a detailed letter regarding what he considered problems  
18 with Plaintiffs Responses. [Berg Decl., p. 4, ¶10].

19 **March 22, 2012** - Mr. Berg received an Email from Mr. Colen asking why  
20 Plaintiffs filed a Motion for Summary Judgment when they had not responded  
21 to the Sankey Discovery Requests. [Berg Decl., p. 4, ¶11].

22 **March 23, 2012** - Mr. Berg received an Email and letter from Mr. Colen  
23 entitled a “Meet and Confer” letter regarding what Mr. Colen claimed were  
24 discovery issues. This letter made blanket/general statements, and failed to  
25 request a “Meet and Confer”; failed to identify the response in controversy;  
26 failed to identify any issue in dispute; failed to briefly state with respect to  
27 each such issue his position and provide legal authority; and failed to specify  
28 the terms of the discovery order he would seek. [Berg Decl. p. 5, ¶13 and Exb.  
“A”, pp. 16-19].

**March 26, 2012** - Mr. Berg responded pointing out that Mr. Colen failed to  
assert to any particular Interrogatory; to any specific response of the Plaintiffs;

1 and explained the law regarding unreasonable discovery requests. [Berg Decl.  
2 p. 5, ¶14 and Exb. "B", pp. 21-24].

3 **March 26, 2012** - Mr. Colen sent three (3) separate letters to Mr. Berg. Mr.  
4 Colen in one of his letters again claimed Plaintiffs had **not** properly responded  
5 to the Sankey's Discovery and again failed to outline what Interrogatory or  
6 Request his dispute pertained; what he felt the problem was with Plaintiffs  
7 response and failed to cite any law; and failed to specify the terms of any  
8 Discovery Order he was seeking. Mr. Colen was now claiming Liberi failed  
to provider her medical records or information. [Berg Decl. p. 6, ¶15 and Exb.  
"C", pp. 26-27].

9 **March 27, 2012** - Mr. Berg responded informing Mr. Colen that Defendants  
10 never requested medical records or medical information from Liberi. [Berg  
11 Decl., p. 6, ¶16, Exb. "D", pp. 29-31].

12 **March 28, 2012** - Mr. Berg received another letter from Mr. Colen claiming it  
13 was another "Meet and Confer" effort. Mr. Colen failed to assert to the  
14 specific discovery response he felt was inadequate; failed to assert which  
Responses he felt was inadequate and/or what he claimed the problem with  
15 the response(s) were; failed to cite to any law or Rule; and failed to specify  
16 the terms of the Discovery Order he would seek. [Berg Decl., p. 7, ¶17, Exb.  
"E", pp. 34-37].

17 **March 29, 2012** - Mr. Berg responded stating Mr. Colen's letter did not make  
18 sense and that Plaintiffs properly responded to all of the Sankey's Discovery  
19 Requests. [Berg Decl., p. 7, ¶18, Exb. "F", p. 39].

20 **May 28, 2012** - Mr. Berg received an Email and letter from Mr. Colen  
21 claiming his letter was another "Meet and Confer" attempt. Mr. Colen failed  
22 to assert whose Responses he was claiming were inadequate; what responses  
he felt were inadequate; why he felt the responses were inadequate; failed to  
23 cite any law to support his position; failed to specify the terms of the  
Discovery Order he would seek; and failed to supply a Stipulation with  
24 Exhibits and Declarations. [Berg Decl., p. 8, ¶20, Exb. "G", p. 41].

25 **May 31, 2012** - Mr. Berg responded to Mr. Colen informing him that the  
26 parties were required to "Meet and Confer" telephonically. Mr. Berg  
27 informed Mr. Colen that it was his position that Plaintiffs complied with  
28 Defendants Discovery requests. [Berg Decl., p. 8, ¶21, Exb. "H", pp. 44-46].

1       **May 31, 2012** - Mr. Colen responded stating he felt Mr. Berg's arguments  
2       were frivolous. [Berg Decl., p. 8, ¶22].

3       None of the above letters or Emails complied with L.R.'s 37-1, 37-2.  
4       Defendants letters and Emails made general/blanket statements; failed to request a  
5       proper "Meet and Confer" telephonically; failed to identify each discovery request he  
6       felt was inadequate; failed to state their position with respect to each such issue; failed  
7       to provide legal authority; and failed to specify the terms of the Discovery Order they  
8       would seek in violation of this Court's L.R.'s 37-1. [Berg Decl., pp. 4-9, ¶¶ 10-24,  
9       Exbs."A"-"H", pp. 16-47].

10       Plaintiffs never received a Stipulation from Defendants with their Declarations  
11       or evidence they intended to use to support their position in violation of this Court's  
12       Local Rules 37-2, 37-2.1 and 37-2.2. [Berg Decl., pp. 8-9, ¶23].

13       On March 30, 2012, Defendants sought Leave of Court to file a Motion to  
14       Compel Plaintiffs Discovery responses, which was Granted by the Court on April 2,  
15       2012.

16       On April 13, 2012, Defendants filed their Motion to Withdraw their Deemed  
17       Admissions. Defendants noticed their Motion twenty-one [21] days before the  
18       Hearing, instead of the required twenty-eight [28] days. The Hearing was set for May  
19       7, 2012.

20       On May 7, 2012, Mr. Berg appeared telephonically at the Sankey's Hearing on  
21       behalf of the Plaintiffs. Defendants and their counsel failed to appear.  
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Defendants failed to comply with the Court's Local Rules 37 through 37-2.2 warranting dismissal of their Motion to Compel and for Sanctions with prejudice, *L.R.* 37-2.4. Plaintiffs seek and are entitled to Attorney Fees and Costs in the amount of Seventy-Five Hundred Dollars [\$7,500.00], *Fed. R. Civ. P.* 37(a)(5)(B).

### III. ARGUMENT

#### A. DEFENDANTS MOTION to COMPEL and for SANCTIONS SHOULD be DENIED for FAILURE to COMPLY with L.R.'S 37-1; 37-2; 37-2.1; 37-2.2; and FED. R. CIV. P. 37(a)(1):

This Court's Local Rule 37-1 states, in relevant part:

"Prior to the filing of any motion relating to discovery pursuant to F.R.Civ.P. 26-37, counsel for the parties shall confer in good faith effort to eliminate the necessity for hearing the motion or to eliminate the necessity for hearing the motion or to eliminate as many of the disputes as possible. It shall be the responsibility of counsel for the moving party to arrange for this conference....if both counsel are not located within the same county of the Central District, the conference may take place telephonically...counsel for the opposing party shall confer with counsel for the moving party within ten (10) days after the moving party serves a letter requesting such conference. The moving party's letter shall identify each issue and/or discovery request in dispute, shall state briefly with respect to each such issue/request the moving party's position (and provide any legal authority which the moving party believes is dispositive of the dispute as to that issue/request), and specify the terms of the discovery order to be sought." *L.R.* 37-1.

Mr. Colen, Counsel for the Defendants failed to conduct a proper "Meet and Confer" and never provided a letter to Mr. Berg requesting a telephonic "Meet and Confer". None of the written communications received from Mr. Colen complied by way of identifying the discovery request in dispute; or stating briefly with respect to each such issue/request the Defendants position; or provided any legal authority

1 which the Defendants believed was dispositive of the dispute; and/or specified the  
2 terms of the Discovery Order to be sought. This alone justifies Denial/Dismissal of  
3 the Sankey's Motion with Prejudice. *See also Fed. R. Civ. P. 37(a)(1)* (prohibiting the  
4 filing of discovery motions without first certifying that the moving party has conferred  
5 in good faith with the adverse party in an effort to resolve the dispute without court  
6 action)  
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9 This Court's *L.R. 37-2* states: "If counsel are unable to settle their differences,  
10 they shall formulate a written stipulation. The stipulation shall be filed and served  
11 with the notice of motion." *L.R. 37-2*, which Defendants failed to comply with.  
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13 This Court's *L.R. 37-2.1* sets out the form and contents of the required  
14 Stipulation. This Court's *L.R. 37-2.2* states:  
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16 "Following the conference of counsel, counsel for the moving party shall  
17 personally deliver, e-mail, or fax to counsel for the opposing party the moving  
18 party's portion of the stipulation, together with all declarations and exhibits to  
19 be offered in support of the moving party's position. Unless the parties agree  
20 otherwise, within seven (7) days of receipt of the moving party's material,  
21 counsel for the opposing party shall personally delivery, e-mail, or fax to  
22 counsel for the moving party the opposing party's portion of the stipulation,  
23 together with all declarations and exhibits to be offered in support of the  
24 opposing party's position. After the opposing party's material is added to the  
25 stipulation by the moving party's counsel, the stipulation shall be provided to  
26 opposing counsel, who shall sign it (electronically or otherwise) and return it  
27 to counsel for the moving party no later than the end of the next business day,  
28 so that it can be filed with the notice of motion." *L.R. 37-2.2*.

25 Defendants never submitted a stipulation, any declarations or exhibits  
26 supporting their position to Plaintiffs. Nor did Defendants file any such stipulation  
27 with their Motion.  
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1 This Court's *L.R.* 37-2.4 states in pertinent part: "The Court will not consider  
2 any discovery motion in the absence of a joint stipulation..." *See also Fed. R. Civ. P.*  
3 37(a)(1) (prohibiting the filing of discovery motions without first certifying that the  
4 moving party has conferred in good faith with the adverse party in an effort to resolve  
5 the dispute without court action).

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7 Because Defendants did **not** comply with this Court's Local Rules 37-1; 37-2;  
8 37-2.1; and 37-2.2 prior to filing their Motion and Amended Motion to Compel, the  
9 Motion must be Denied with Prejudice. *See L.R.* 37-2.4. Plaintiffs are entitled to  
10 Attorney Fees and Costs, *Fed. R. Civ. P.* 37(a)(5)(B).

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13 **B. PLAINTIFF LIBERI PROPERLY RESPONDED to the SANKEY**  
14 **DEFENDANTS INTERROGATORIES:**

15 Defendants Memorandum of Law sets forth a long list of Interrogatories to  
16 which they contend Liberi failed to adequately respond. As an initial matter, because  
17 Defendants have **not** attempted to conference these specific discovery disputes, they  
18 should be barred from raising them in their Motion to Compel pursuant to Local Rules  
19 37-1; 37-2; 37-2.1;37-2.2; and *Fed. R. Civ. P.* 37(a)(1). Apart from these fatal  
20 procedural defects, Defendants contention that Liberi improperly responded to  
21 Defendants Interrogatories is without merit. Liberi in good faith responded to  
22 Defendants Discovery requests.

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26 Defendants in their Motion on p. 7, ¶A "This Motion to Compel is  
27 Appropriate"; p. 8, ¶C "Meaningful Responses to Interrogatories pursuant to  
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1 ***Fed. R. Civ. P. 33* are Required**"; p. 9, ¶D **"Annoyance, Embarrassment,**  
2 **Oppression, Undue Burden or Expense**"; p. 9, ¶E **"Blanket Objections**"; pp. 9-10,  
3 **¶F "Specificity of Objections is Required"** [sic]; pp. 10-11, ¶G **"Relevancy**"; p.  
4 11, ¶H **"No Reservation of Right to Object**"; p. 11, ¶I **"Legal Conclusions**"; p. 12,  
5 **¶J "Assertions of Attorney-Client Privilege And the Work Product Qualified**  
6 **Privilege**"; p. 13, ¶K **"Privilege Log is Required**"; pp. 13-15, ¶L **"Detail in the**  
7 **Privilege Log is Required**"; p. 15, ¶M **"Attachments are Separate Documents**";  
8 and p. 15, ¶N **"The Burden is on the Plaintiffs and Mr. Berg"** cite some law<sup>1</sup> but  
9 none of them are applied to any of Liberi's Responses to Defendants Discovery  
10 requests that Defendants are claiming are inadequate or deficient.  
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14 Defendants claim that Liberi "adamantly refused to reply to the Interrogatories  
15 and Request for Production of Documents propounded by...TSF" [Def. MTC at p. 6].  
16 This is untrue and refuted by Mr. Colen's Declaration ["Colen's Decl."] Exhibit  
17 ["Exb."] "1", DN 537-1 at pp. 5-35<sup>2</sup> and DN 537-2, pp. 1-40, which is seventy [70]  
18 pages of Liberi's Responses to the Defendants Interrogatories. Defendants then claim  
19 Liberi's response are inadequate, but fail to explain how they are inadequate. [Def.  
20 MTC at p. 6].  
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25 <sup>1</sup> The law cited pertains to Disclosure of documents and failure to provide a Privilege Log;  
26 Sankey's Motion is based on Interrogatories and not the Production of Documents; Liberi did not  
27 object based on Attorney/Client privilege and no Privilege Log was required.

28 <sup>2</sup> Plaintiffs are referring to the PACER page numbers at the top of the document as the Sankey  
Defendants failed to number their Exhibit pages as required.

1 Defendants Brief concentrates and complains that Liberi asserted Objections.  
2 Objections were clearly made in Liberi's responses to the Defendants Discovery  
3 Requests. All but four [4] Interrogatories were fully responded to pursuant to *Fed. R.*  
4 *Civ. P.* 33(b)(4).

6 Rule 26 governs the scope of discovery, stating: "Parties may obtain discovery  
7 regarding any non-privileged matter that is relevant to any party's claim or defense."  
8 *Fed. R. Civ. P.* 26(b)(1). Relevant information "need not be admissible at the trial,"  
9 and is discoverable "if the discovery appears reasonably calculated to lead to the  
10 discovery of admissible evidence." *Id. Oppenheimer Fund, Inc. v. Sanders*, 437 U.S.  
11 340, 353 (1978); *See also Davis v. Fendler*, 650 F.2d 1154, 1160 (9th Cir.1981). The  
12 four [4] Interrogatories objected to as irrelevant, invasion of privacy, beyond the  
13 scope of discovery were seeking information pertaining to Liberi's criminal  
14 conviction; Mental Health Records; and any crimes Liberi was accused of, but not  
15 convicted of.

19 All of Liberi's objections are proper and explained in detail. Liberi responded  
20 to the Interrogatories without waiving her objections. *Bible v. Rio Properties, Inc.*,  
21 246 F.R.D. 614, 618 (C.D. Cal. 2007) (citing, e.g., *Blankenship v. Hearst Corp.*, 519  
22 F.2d 418, 429 (9th Cir.1975)). *See also Cable & Computer Tech. v. Lockheed*  
23 *Sanders, Inc.*, 175 F.R.D. 646, 650 (C.D. Cal. 1997); and *Paulsen v. Case Corp.*, 168  
24 F.R.D. 285, 288 (C.D. Cal. 1996).

1 Defendants asked Liberi for information that was **not** in the custody and/or  
2 control of Liberi and Liberi objected as such, providing the names of the individuals  
3 and entities, along with addresses as to who had the information being sought. The  
4 Ninth Circuit has defined control in this context “as the legal right to obtain  
5 documents upon demand.” United States v. Int’l Union of Petroleum & Indus.  
6 Workers, AFL-CIO, 870 F. 2d 1450, 1452 (9th Cir. 1989). *See also* A. Farber &  
7 Ptnrs., Inc. v. Garber, 234 F.R.D. 186, 189-190 (C.D. Cal. 2006). Some of the  
8 information requested, is information in the possession of Defendants which the  
9 Defendants should have preserved. “While a litigant is under no duty to keep or retain  
10 every document in its possession once a complaint is filed, it is under a duty to  
11 preserve what it knows, or reasonably should know . . .” Phillips v. Netblue, Inc., No.  
12 05-4401, 2007 WL 174459, at \*2 (N.D. Cal. Jan. 22, 2007). *See also* National Ass’n  
13 of Radiation Survivors v. Turnage, 115 F.R.D. 543, 556-57 (N.D. Cal. 1987).

14 Defendants complaints are unintelligible, and Plaintiffs are unable to determine  
15 what the Defendants are requesting or complaining of regarding Liberi’s responses.

16 Defendants complain that they do **not** want to review all the documentation and  
17 information supplied to them in Plaintiffs Initial Disclosures. Plaintiffs numbered  
18 each document, which is very easy to follow, by number and name of documents. *See*  
19 Berg Decl. at p. 2, ¶3.

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1           **i. Defendants Complaints regarding Liberi's Responses lack Merit:**

2           Def. MTC, p. 19, ¶D-1: Defendants claim that Liberi failed to identify the  
3 statements, whether the statements listed were made by Sankey or whether the  
4 statement was false. Defendants asked Liberi to "Identify the statements by  
5 publication made by Neil Sankey...that you contend are false". Liberi responded,  
6 "Neil Sankey's false statements and publication include but are not limited to" and  
7 provided nineteen (19) published false statements that were made by Neil Sankey. *See*  
8 Colen's Declaration ["Decl."], DN 537-1, Exb. "1" at pp. 11-12. Liberi supplied  
9 Defendants with all the false statements in her Initial Disclosures on November 29,  
10 2011 in Document No.'s 8 pgs. 6, 11-13, 24-25, 202-203; No. 9, pp. 39, 45, 58, 63-65,  
11 77-78, 879-895; No. 10, pp. 1-2; No. 12a through 12c; and No. 23, p. 2. The  
12 information was equally available to the Defendants from the Court's Docket that had  
13 been served upon the Defendants several times; from the Internet postings on Orly  
14 Taitz's website; and from the Defendants own files as they provided some of these  
15 documents to Plaintiffs in their Initial Disclosures.  
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17           Def. MTC, pp. 19-20, ¶D-2: This Interrogatory ["Interrog."] requested Liberi to  
18 "Identify all documents that relate to your contention that statements by publication  
19 were made by Neil Sankey about you that are false". Liberi responded listing ten (10)  
20 documents; *See* Colen's Decl., DN 537-1, Exb. "1" at pp. 13-14. Defendants claim  
21 they do not know what March 16, 2009 E-Mail or the other dated Emails were. Liberi  
22 supplied Defendants with all the documents containing the false statements in  
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1 Plaintiffs Initial Disclosures on November 29, 2011 in Document No.'s 8 pgs. 6, 11-  
2 13, 24-25, 202-203; No. 9, pp. 39, 45, 58, 63-65, 77-78, 879-895; No. 10, pp. 1-2; No.  
3 12a through 12c; and No. 23, p. 2. The information sought by Defendants was  
4 equally available to them from the Court's Docket and had been served upon the  
5 Defendants several times, from the Internet postings on Orly Taitz's website, and  
6 from the Defendants own files as they provided the documents to Plaintiffs with their  
7 Initial Disclosures.  
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10 Def. MTC, pp. 19-20, ¶D-3: Liberi fully responded to this Interrog..  
11 Defendants claim that Liberi only provided a name and failed to identify the  
12 individual, but the Defendants admit that they received the information in Plaintiffs  
13 Initial Disclosures. Defendants Interrog. asked for Liberi to "Identify all persons with  
14 whom you have communicated that relate to your contention that statements by  
15 publication were made by Neil Sankey about you that are false." Defendants already  
16 had the information in their possession. The individuals cited to in Liberi's response  
17 were fully identified in Plaintiffs Initial Disclosures on pp. 2-15, ¶A, subparagraphs  
18 "1" through "41". Despite this, Liberi again named the individuals.  
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22 Def. MTC, pp. 20, ¶D-4: Defendants claim a privilege log is required and Berg  
23 refused to supply it. Interrog. 4 asked Liberi to "Identify the oral statements made by  
24 Neil Sankey about you that are false". Liberi fully answered this Interrog. as shown  
25 in Colen's Decl., DN 537-1, Exb. "1" at pp. 16-18. Liberi never claimed any type of  
26 "privilege" that warranted a "privilege log".  
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1 Def. MTC, pp. 20, ¶D-5: Defendants only plead “As 1.” Interrog. 5 asked  
2 Liberi to “Identify all documents that relate to your contention that oral statements  
3 made by Neil Sankey are false.” Liberi fully answered this Interrog.; *See* Colen’s  
4 Decl., DN 537-1, Exb. “1” at pp. 19-20. Liberi supplied Defendants with all the false  
5 statements in Plaintiffs Initial Disclosures on November 29, 2011, in Document No.’s  
6 8 pgs. 6, 11-13, 24-25, 202-203; No. 9, pp. 39, 45, 58, 63-65, 77-78, 879-895; No. 10,  
7 pp. 1-2; No. 12a through 12c; and No. 23, p. 2. The information is equally available  
8 from the Court’s Docket; and had been served upon the Defendants several times,  
9 from the Internet postings on Orly Taitz’s website, and from the Defendants own files  
10 as they provided some of the documents to Plaintiffs in their Initial Disclosures.  
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12 Def. MTC, pp. 20, ¶D-6: Defendants pled “As 3.” Interrog. 6 asked Liberi to  
13 “Identify all persons with whom you have communicated that relate to your  
14 contention that oral statements made by Neil Sankey about you that are false.” Liberi  
15 properly responded without waiving objections; *See* Colen’s Decl., DN 537-1, Exb.  
16 “1” at pp. 20-22. Liberi identified twenty-four (24) individuals in her response.  
17 Defendants already had the information in their possession. The individuals cited to  
18 in Liberi’s response were fully identified in Plaintiffs Initial Disclosures on pp. 2-15,  
19 ¶A, subparagraphs “1” through “41”.  
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21 Def. MTC, pp. 20-21, ¶D-7: Defendants falsely claim that this case “largely  
22 concerns what Liberi asserts are not criminal acts that she has done”. This is without  
23 merit. This case involves the false allegations and falsely accusing Liberi of  
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1 committing crimes against the Defendants; violating her probation based on the  
2 Defendants false allegations that Liberi is committing crimes; false allegations as to  
3 Liberi having a long criminal history; invasion of Plaintiffs privacy; harassment;  
4 cyber-stalking; obtaining and publication of Plaintiffs private information; malicious  
5 prosecution; abuse of process, just to name a few. This case has nothing to do with  
6 Liberi's criminal conviction. Defendants had the information in their possession.  
7 Defendants posted it all over the Internet, discussed it in Radio shows and filed it in  
8 this case on May 28, 2009, DN's 29, 35, 36; June 9, 2009, DN's 50, 51, 53; June 11,  
9 2009, DN 59; August 3, 2009, DN 91; August 3, 2009, DN 93, July 26, 2010, DN's  
10 135, 136; and September 28, 2010, DN 145. This information was provided to  
11 Defendants numerous times in Plaintiffs Initial Disclosures in Document No.'s 8, pp.  
12 15-16, 28-29, 140-141, 160-161, 206-207, 280-281, 345-346, 407-408, 443-444, 489-  
13 490, 527-529; No. 9, pp. 288-289, 311-312, 363-364, 447-448, 525-526, 601-602,  
14 641-642, 697-698 and 741-743. The information is equally available from the San  
15 Bernardino County Superior Court's website at <http://www.sb-court.org/Home.aspx>,  
16 where they originally obtained the information; and it is already in Defendants  
17 possession as Defendants provided it to Plaintiffs in their Initial Disclosures.

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24 Def. MTC, p. 21, ¶D-8: Defendants complain that Liberi referred to Emails,  
25 website postings, and what they claim are inapplicable admissions. Liberi properly  
26 responded; *See* Colen's Decl., DN 537-1, Exb. "1" at pp. 23-24. This information was  
27 already in the possession of Todd Sankey, as Defendants Initial Disclosures furnished  
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1 Plaintiffs with the confidential reports they obtained on Liberi and her husband, Brent.  
2 The documents are equally available to the Defendants from the Court's Docket,  
3 which Defendants were served with; and the documents were provided to the  
4 Defendants with Plaintiffs Initial Disclosures in Document No.'s 8 pgs. 6, 11-13, 24-  
5 25, 202-203; No. 9, pp. 39, 45, 58, 63-65, 77-78, 879-895; No. 10, pp. 1-2; No. 12a  
6 through 12c; and No. 23, p. 2.  
7  
8

9 Def. MTC, p. 21, ¶D-9: Defendants complain of the objections asserted by  
10 Liberi and state had Liberi not asserted objections Defendants would be "thrilled"  
11 with the response. Liberi, without waiving her objections, properly responded to this  
12 Interrog.. See Colen's Decl., DN 537-1, Exb. "1" at pp. 25-27. This information was  
13 provided to Defendants in Plaintiffs Initial Disclosures on November 29, 2011 in  
14 Document No.'s 8 pgs. 6, 11-13, 24-25, 202-203; No. 9, pp. 39, 45, 58, 63-65, 77-78,  
15 879-895; No. 10, pp. 1-2; No. 12a through 12c; and No. 23, p. 2. The information  
16 was already in the possession of Defendants as the reports with Liberi's private  
17 information were supplied to Plaintiffs by the Defendants; and the information is  
18 equally available to Defendants from the Court's Docket, which Defendants were  
19 served with multiple times. Liberi objected because not all the information was in her  
20 possession or control, and provided sixteen (16) individuals and businesses that had  
21 custody and control of the information.  
22  
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25

26 Def. MTC, p. 21, ¶D-10: Defendants state "As 4." In Interrog. 4 Defendants  
27 claimed a privilege log was required and Berg refused to supply it. Interrog. No. 10  
28

1 asked Liberi to “Identify all persons who with whom you have communicated that  
2 relate to your contention that Todd Sankey obtained confidential information about  
3 you.” Liberi fully answered this Interrog. as shown in Colen’s Decl., DN 537-1, Exb.  
4 “1” at pp. 27-29. Liberi never claimed any type of “privilege” that warranted a  
5 “privilege log”.  
6

7  
8 Def. MTC, pp. 21-22, ¶D-11: Interrog. 11 asked Liberi to “State all facts upon  
9 which you base your contention that Neil Sankey illegally obtained confidential  
10 information about you.” Liberi properly responded as reflected in Colen’s Decl., DN  
11 537-1, Exb. “1” at pp. 29-32. This information is in the possession of the Defendants.  
12 Defendants provided the reports containing Liberi’s private data that Todd Sankey,  
13 Neil Sankey and The Sankey Firm, Inc. obtained from IRBSearch, LLC and Lexis.  
14 Liberi further objected as **not** all the information was in her possession, but in the  
15 possession of other individuals and businesses. Liberi provided the names and  
16 addresses of the other individuals and businesses the information could be obtained.  
17 The information was provided to Defendants in Plaintiffs Initial Disclosures on Nov.  
18 29, 2011 in Document No.’s 8 pgs. 6, 11-13, 24-25, 202-203; No. 9, pp. 39, 45, 58,  
19 63-65, 77-78, 879-895; No. 10, pp. 1-2; No. 12a through 12c; and No. 23, p. 2.  
20

21  
22 Def. MTC, p. 22, ¶D-12: Defendants state “Save for the inappropriate  
23 objections, there is an actual response. But the objections exist and call everything  
24 that Liberi writes into severe doubt”. This makes no sense and Liberi is unsure as to  
25 what Defendants are seeking. Liberi properly responded to this Interrog.  
26  
27  
28

1 Def. MTC, p. 22, ¶D-13: Defendants admit that Liberi responded to this  
2 Interrog.. Defendants claim because “objections exist, it calls everything that Liberi  
3 writes into severe doubt”. Liberi is unsure what Defendants are seeking as they admit  
4 Liberi properly answered the Interrog.

6 Def. MTC, p. 22, ¶D-14: Liberi fully responded to this Interrog.. *See* Colen’s  
7 Decl., DN 537-2, Exb. “1”, pp. 3-5. Interrog. 14 asked Liberi to “Identify all persons  
8 with whom you have communicated about your contention that Neil Sankey illegally  
9 obtained confidential information about you.” Defendants complain that six (6) of  
10 Liberi’s responses to this Interrog. includes “various Employees...” Liberi provided  
11 all the names she had, but was not aware of the exact names of each and every  
12 employee she spoke with at the locations provided. Liberi provided as much  
13 information as she had. Defendants already had the information in their possession.  
14 The individuals cited to in Liberi’s response were fully identified in Plaintiffs Initial  
15 Disclosures on pp. 2-15, ¶A, subparagraphs “1” through “41”, along with the report  
16 numbers.

21 Def. MTC, p. 22, ¶D-15: Interrog. 15 asked Liberi to state, “If you contend that  
22 your Social Security number was not available in public records, state all facts upon  
23 which you base your contentions.” Liberi properly responded; *See* Colen’s Decl., DN  
24 537-2, Exb. “1”, pp. 5-7. Defendants falsely claim, “*Mr. Berg admitted to the Court*  
25 *at the hearing on Lexis’s Motion for Summary Judgment that Liberi had placed her*  
26 *own Social Security number into public view.*” This is untrue and dishonest. Neil  
27  
28

1 Sankey supplied an unauthenticated document as an Exb. to his Decl. in Lexis'  
2 Motion for Summary Judgment. Sankey claimed he obtained the document from the  
3 San Bernardino County Superior Court. Sankey claimed it was a Declaration of  
4 Liberi and contained Liberi's Social Security number. This same unauthenticated  
5 document had been filed numerous times by Defendant Orly Taitz. The Social  
6 Security number this document contained was xxx-xx-6858, **not** Liberi's Social  
7 Security number published by Neil Sankey and Orly Taitz, which was xxx-xx-4312.  
8 Sankey contended that he obtained Liberi's Social Security number from a  
9 Bankruptcy filing; but, the documents in the Bankruptcy case cited by Neil Sankey  
10 were sealed restricted from public access. [Berg Decl., p. 10, ¶27]. Federal and State  
11 Government are prohibited from furnishing public records which contain the person's  
12 name, address, telephone number, date of birth, Social Security number, or any other  
13 identifying information. Public records obtained from federal, state or local  
14 government records can only contain a name. *See Cal. Civ. Code* §1798.3; *Cal. Civ.*  
15 *Code* §1798.24 ("No agency may disclose any personal information in a manner that  
16 would link the information disclosed to the individual to whom it pertains... "); *CA*  
17 *Gov't Code* 6253(a); *CA Civil Code* 1798.81.5(e)(5); *CA Gov't Code* 6254(c); *See*  
18 *United States Dep't of Justice v. Reporters Committee for Freedom of the Press*, 489  
19 U.S. 749 (1989). Private Investigators are given access to confidential information  
20 that the general public is **not** privy to; and Private Investigators are mandated to  
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1 ensure a person's confidential information is maintained confidential, including Social  
2 Security numbers. *See Cal. Civ. Code* §1798.81.5(c).

3  
4 Def. MTC, p. 22, ¶D-16: Liberi supplied this information to Defendants in  
5 Plaintiffs Initial Disclosures in Document No.'s 8, pp. 15-16, 28-29, 140-141, 160-  
6 161, 206-207, 280-281, 345-346, 407-408, 443-444, 489-490, 527-529; No. 9, pp.  
7 288-289, 311-312, 363-364, 447-448, 525-526, 601-602, 641-642, 697-698 and 741-  
8 743. The information is equally available from the San Bernardino County Superior  
9 Court's website at <http://www.sb-court.org/Home.aspx>; and it is already in  
10 Defendants possession as Defendants provided it to Plaintiffs in their Initial  
11 Disclosures. This information is equally available from the Court's Docket as it was  
12 filed on May 28, 2009, DN's 29, 35, 36; June 9, 2009, DN's 50, 51, 53; June 11,  
13 2009, DN 59; August 3, 2009, DN's 91, 93; July 26, 2010, DN's 135, 136; and  
14 September 28, 2010, DN 145. Defendants are located in California and can obtain  
15 what they are looking for from the San Bernardino County Superior Court for far less  
16 than it would cost Plaintiffs. It would cost Plaintiffs substantially more money to  
17 obtain the information as they would have to fly to California, stay in a hotel, rent a  
18 car, and pay to obtain the documents and information Defendants are seeking.  
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24 Def. MTC, p. 23, ¶D-17: Interrog. 17 asked Liberi to "Identify all damages you  
25 contend you have suffered." Liberi responded with an exhaustive list with  
26 explanation as reflected in Colen's Decl., DN 537-2, Exb. "1", at pp. 8-20. Liberi is  
27 unsure as to what the Defendants are claiming is inadequate with Liberi's response.  
28

1 Liberi gave them in excess of what they requested in this Interrog.. Contrary to  
2 Defendants statement, Liberi did **not** claim “pain and suffering causing health  
3 complications”. What Liberi stated was “Emotional Distress causing serious health  
4 complications as a result of the above”. *See* Colen Decl., DN 537-2, Exb. “1” at p. 20.

5  
6 Def. MTC, p. 23, ¶D-18: Defendants asked Liberi to “Identify all documents  
7 that relate to damages that you contend that you suffered.” Liberi properly responded  
8 with an exhaustive list identifying the documents as reflected in Colen’s Decl., DN  
9 537-2, Exb. “1”, pp. 20-25. Not all documents were in Liberi’s possession, but in the  
10 possession of the Santa Fe Police Department and the Orange County Sheriff’s  
11 Department, which Liberi provided along with addresses and report numbers as to  
12 where Defendants could obtain the additional information. Defendants claim that  
13 Liberi only provided “medical bills”; “legal expenses” and “travel expenses” which is  
14 without merit and refuted by Colen’s Decl., DN 537-2, Exb. “1”, pp. 20-25.  
15  
16

17  
18 Def. MTC, pp. 23-24, ¶D-19: Interrog. 19 asked Liberi, “If you contend that  
19 you have suffered emotional distress as a result of the action that you allege in the  
20 complaint, identify all documents that relate to your mental health.” Liberi objected  
21 as this Interrog. was a clear invasion of Liberi’s privacy and sought information that  
22 Defendants are **not** entitled. Liberi has never claimed any psychiatric injury, nor have  
23 Defendants explained a need for such private records, if they exist. Mental Health  
24 Records are **not** reasonably calculated to lead to the discovery of any admissible  
25 evidence and are overbroad. *Hallendorf v. Superior Court*, (1978) 85 Cal. App. 3d  
26  
27  
28

1 553, 557 [149 Cal. Rptr. 564, 566]. Defendants claim that psychiatric records exist  
2 for Liberi because she pled "Emotional and Mental Distress". Emotional and Mental  
3 Distress is mental pain and suffering considered in assessing compensatory damages.  
4 Emotional and Mental Distress and suffering include fright, nervousness, grief,  
5 emotional trauma, anxiety, humiliation, embarrassment, and indignity, which Liberi  
6 has suffered. See Cochran v. Cochran, 65 Cal. App. 4th 488, 494 (1988); Chaconas v.  
7 JP Morgan Chase Bank, 713 F. Supp. 2d 1180, 1187-188 (S.D. Cal. 2010). This does  
8 not mean psychiatric or mental health records exist. Defendants are simply on a  
9 fishing expedition. Liberi responded "Liberi's Emotional Distress is documented in  
10 her medical records with her treating physicians, including her Internist; Cardiologist;  
11 paramedic records and hospital records. Liberi's medical records were filed in Judge  
12 Robreno's Federal Court in Pennsylvania on December 20, 2010, prior to the transfer  
13 to this Court and copies were served by Federal Express upon Neil Sankey and  
14 Sankey Investigations, Inc., Tracking No. 8741 6821 6534, received and signed for by  
15 H. Sankey on December 15, 2010 at 2:09 p.m.; and to Todd Sankey and The Sankey  
16 Firm, Inc., Tracking No. 8741 6821 6523, received and signed for by B. Helge on  
17 December 15, 2010 at 12:08 p.m. [Berg Decl., p. 9, ¶25].  
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24 Def. MTC, p. 24, ¶D-20: Liberi incorporates by reference her response  
25 explained in number 19 above. Liberi has never claimed any psychiatric injury, nor  
26 has Defendant explained a need for such private records, if they exist.  
27  
28



1 Def. MTC, p. 24, ¶D-21: Interrog. 21 asked Liberi to “State the facts on which  
2 you base your contention that Neil Sankey forged documents”. Liberi properly  
3 responded as reflected in Colen’s Decl., DN 537-2, Exb. “1”, pp. 28-30. Defendants  
4 were already in possession of the information as Liberi supplied this information in  
5 Plaintiffs Initial Disclosures on November 29, 2011 in Document No.’s 8 pgs. 6, 11-  
6 13, 24-25, 202-203; No. 9, pp. 39, 45, 58, 63-65, 77-78, 879-895; No. 10, pp. 1-2; No.  
7 12a through 12c; and No. 23, p. 2. The information is available from the Court’s  
8 Docket which Defendants had been served with several times. Plaintiff Liberi was  
9 **not** in possession of all the information, but supplied the names of individuals and  
10 entities that had control and custody of the information, with addresses that the  
11 information could be obtained.  
12

13 Def. MTC, p. 24, ¶D-22: Interrog. 22 asked Liberi to “Identify all documents  
14 on which you base your contention that Neil Sankey forged documents.” Liberi  
15 responded to this Interrog. as reflected in Colen’s Decl., DN 537-2, Exb. “1”, pp. 30-  
16 33. Defendants were already in possession of this information and the actual  
17 documents as Liberi provided them with Plaintiffs Initial Disclosures on Nov. 29,  
18 2011 in Document No.’s 8 pgs. 6, 11-13, 24-25, 202-203; No. 9, pp. 39, 45, 58, 63-65,  
19 77-78, 879-895; No. 10, pp. 1-2; No. 12a through 12c; and No. 23, p. 2. Liberi was  
20 not in possession or control of all the information, but provided the names and  
21 addresses of individuals and entities the information could be obtained. This  
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1 information is equally available from the Court's Docket and had been served upon  
2 Defendants numerous times.

3  
4 Def. MTC, pp. 24-25, ¶D-23: Interrog. 23 asked Liberi to "Identify all persons  
5 who have knowledge Neil Sankey forged or altered documents". Liberi responded as  
6 reflected in Colen's Decl., DN 537-2, Exb. "1", pp. 33-34. The individuals cited to in  
7 Liberi's response were fully identified in Plaintiffs Initial Disclosures on pp. 2-15, ¶A,  
8 subparagraphs "1" through "41". Liberi again named the individuals. The  
9 information was equally available from the Court's Docket and had been served upon  
10 the Defendants several times; and from the Defendants own files as the Defendants  
11 provided some of these documents to Plaintiffs in their Initial Disclosures.  
12

13  
14 Def. MTC, p. 25, ¶D-24: Interrog. 24 asked Liberi to "State the facts on which  
15 you base your contention that Neil Sankey altered documents." Liberi responded as  
16 reflected in Colen's Decl., DN 537-2, Exb. "1", pp. 35-37. Liberi incorporates by  
17 reference as if fully set forth here at length her answer to Interrog. 21 above.  
18

19  
20 Def. MTC, p. 25, ¶D-24: Interrog. 25 asked Liberi to "Identify all documents  
21 on which you base your contention that Neil Sankey altered documents". Liberi  
22 responded as reflected in Colen's Decl., DN 537-2, Exb. "1", pp. 37-40. Liberi  
23 incorporates by reference as if fully set forth here at length her response to Interrog.  
24 22 above.  
25

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